

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE NEW YORK DISTRICT
COUNCIL OF CARPENTERS
PENSION FUND, et al.

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 8/14/08
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Petitioner,

08 Civ. 1711(PKC)

-against-

CARMODY, INC.,

Respondent.
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ORDER GRANTING PETITION

P. KEVIN CASTEL, U.S.D.J.

This action to confirm an arbitration award was filed on February 21, 2008. Service was effectuated on respondent, pursuant to New York Business Corporation Law § 306, by delivering a copy to the Secretary of State of New York. No response to the petition has been filed. Because a petition to confirm an arbitration award ought not be granted on default, I will proceed to adjudicate the petition. See Blair & Co., Inc. v. Gottdiener, 462 F.3d 95, 109 (2d Cir. 2006)(“default judgments in confirmation/vacatur proceedings are generally inappropriate.”).

This court has subject matter jurisdiction, among other reasons, by reason of section 301 of the Labor Management Relations Act (“LMRA”), 29 U.S.C.A. § 185. The benefit funds at issue were established and maintained pursuant to section 302 (c)(5) of the LMRA, 29 U.S.C. § 186(c)(5).

The Collective Bargaining Agreement (“CBA”) between the parties constituted a valid agreement to arbitrate an issue relating to the failure of respondent to make contributions to the benefit funds. The dispute was submitted to a duly designated


impartial arbitrator, Roger E. Maher. After proper notice to the parties, the arbitrator held a hearing and rendered an award in writing on December 13, 2007. The arbitrator found in favor of the petitioner and concluded, after hearing the testimony of the auditor, that respondent had failed to make proper contributions during the period of July 1, 2002 through July 29, 2007.

The Arbitrator awarded \$19,115.15 in delinquent amounts and interest plus 10% interest from the date of the award.

I conclude that the award is based in fact and law and the petition to confirm is GRANTED. The petitioner is entitled to reasonable attorneys' fees and costs in connection with proceedings to confirm the award. I have reviewed the affidavit of services and conclude that it supports an award; the time spent and the hourly rates are reasonable. Fees and costs of \$1947.50 are awarded in addition to the sum of \$19,115.15.

The Clerk should enter judgment.

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
August 8, 2008